IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

WRIT PETITION NO.3048 OF 2006

M/s.Kirloskar Oil Engines Ltd. ...Petitioner.

Vs.

Gautam Mahadeo Survase. ...Respondent.

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Mr.Neel Helekar i/b.M/s.Haresh Mehta & Co. for the Petitioner.

Ms.Seema Sarnaik for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

July 17, 2006.

P.C. :

Rule, by consent of Counsel made returnable forthwith. By consent of Counsel and at their request, taken up for final hearing.

The workman filed an application at Exh.U-23 for the grant of subsistence allowance, on 10th February 2003. The application was allowed in

part by the Labour Court which directed the management to pay subsistence allowance to the workman until 16th November 2000, at the same rate at which it was paid until 7th July 2000. The matter was carried in revision by the workman and the Revision Application was allowed on 5th July 2005 by directing the management to pay the subsistence allowance in accordance with law. At the same time, the matter was remanded back to the Labour Court to be decided afresh. On 19th December 2005, when a petition was filed by the management, this Court set aside the order of Industrial Court dated 5th July 2005 since the order did not record any reasons in support of the conclusion. Upon remand, the Industrial Court passed a fresh order dated 9th March 2006.

The order of remand of this Court specifically adverted to the absence of reasons in the order of the Industrial Court. Upon remand all that has been done by the Industrial Court is to advert to head notes of certain judgments. Thereafter the Industrial Court has merely proceeded to allow the application for subsistence allowance until 10th February 2003 without

indicating any reasons at all. With respect, that is not an appropriate manner in which judicial proceedings should be disposed of. In fact, the net result of the situation is that both, the management as well as the workman are aggrieved by the ultimate conclusion of the Industrial Court. Though the workman has not challenged the order, Counsel for the workman has submitted that the workman is aggrieved because he has been granted subsistence allowance only upto 10th February 2003. On the other hand, on behalf of the management it has been urged that the application that was filed by the workman on 10th February 2003 contained an averment to the effect that the management had been restrained by an order of status quo from dismissing the workman. Counsel for the management submits that the management cannot be saddled with the liability to pay subsistence allowance once the enquiry was complete and since it was because of the order of status quo that the management could not pass final orders. On this there is a considerable degree of dispute between Learned Counsel. According to the workman, the order of status quo was in fact vacated on 16th November 2000 after which there was no embargo on the

management to pass a final order in the disciplinary proceedings. Neither of the Counsel is in a position to make a firm submission before this Court as to whether the order of status quo passed by the Industrial Court on 15th July 2000 was in fact, vacated. Despite opportunity being granted, the order by which the earlier order of status quo was vacated is not produced.

In the circumstances, Counsel are agreed that the appropriate course of action is to remand the matter back to the Industrial Court for a decision afresh in accordance with law. The impugned order dated 9th March 2006 is quashed and set aside. It is expected that the Industrial Court shall deal with the respective contentions of the workman and the management and pass a reasoned order in the revision application. The Revision Application is restored to file. The parties shall appear before the Industrial Court for receiving directions on 7th August 2006. The Industrial Court shall endeavour to dispose of the matter on or before 30th October 2006. All the rights and contentions are kept open. The Petition is accordingly disposed of.

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